

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	ORDER GRANTING MOTION TO
)	AMEND JUDGMENT
vs.)	
)	Case No. 1:08-cr-013
Marcus Yellow Earrings,)	
)	
Defendant.)	

Before the Court is the Government's "Motion for Miscellaneous Relief: Final Determination of Restitution" filed on August 13, 2008. See Docket No. 32. The Government moves the Court to amend the Judgment (Docket No. 31), dated July 21, 2008, to include restitution in the amount of \$60.00 to be payable to the victim. The Defendant has not responded to the motion.

Pursuant to 18 U.S.C. § 3664(d)(5), if the victim's losses are not ascertainable ten days prior to sentencing, the Government or the probation officer shall inform the Court of this fact and the Court shall set a date for the final determination of the victim's losses that is not to exceed ninety days after sentencing. The Court ordered in the Judgment that the "issue of restitution shall remain open for thirty (30) days for the parties to determine the value of a cellular phone." See Docket No. 31. The Government filed its motion on August 13, 2008, which is within the thirty-day deadline specified in the Judgment.

The Government states that it has secured information from the victim indicating that the value of the cellular phone at issue is \$60.00. The Court finds that the Judgment should be amended to include restitution in the amount of \$60.00 to cover the value of the cellular phone.

The Court **GRANTS** the Government's motion (Docket No. 32) and orders the Clerk of Court to file an amended Judgment directing the defendant to pay a total of \$60.00 in restitution.

IT IS SO ORDERED.

Dated this 2nd day of September, 2008.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court